

LONG RANGE BUILDING PROGRAM

Program Description

In 1963, the legislature enacted the Long-Range Building Program (LRBP) to provide funding for construction, alteration, repair, and maintenance of state-owned buildings and grounds. The program was developed in order to present a single, comprehensive, and prioritized plan for allocating state resources for the purpose of capital construction and repair of state-owned facilities. Historically, the LRBP has been funded with a combination of cash accounts and bonding. The various types of cash accounts include state and federal special revenue funds, other funds (such as university and private funds), and the capital projects fund (long-range building program account).

Figure 1 summarizes capital project appropriations for each biennium since 1985.

| Figure 1 Capital Projects Appropriated by Biennium 1985 Biennium to 2005 Biennium (in millions) | | | | | | |
|---|-----------------------------|-----------------|----------------|-------------------------------|---------------|------------------------------------|
| Biennium | Capital Projects Fund | General Fund | Other Funds | (3) Total Cash Projects | G.O. Bonds | Total Cash & Bonded Projects |
| 1985 | \$10.870 | \$0.000 | \$15.693 | \$26.563 | \$39.335 | \$65.898 |
| 1987 | 10.518 | - | 19.202 | 29.720 | 8.550 | 38.270 |
| 1989 | 6.247 | - | 11.440 | 17.687 | - | 17.687 |
| 1991 | 7.515 | - | 21.556 | 29.071 | 3.823 | 32.894 |
| 1993 | 8.382 | 1.768 | 70.052 | 80.202 | 48.561 (1) | 128.763 |
| 1995 | 3.119 | 2.600 (2) | 30.898 | 36.617 | 6.460 | 43.077 |
| 1997 (4) | 7.835 | - | 145.191 | 153.026 | 41.865 | 194.891 |
| 1999 | 9.160 | - | 69.164 | 78.324 | 43.319 | 121.643 |
| 2001 | 7.515 | 0.170 | 107.936 | 115.621 | 33.404 | 149.025 |
| 2003 | 5.490 | - | 75.325 | 80.815 | 25.025 | 105.840 |
| 2005 (5) | 2.282 | - | 43.853 | 46.134 | - | 46.134 |

(1) The 1993 legislature reduced the prison expansion by \$12.7 million.
 (2) HB46 diverted cigarette tax revenues from the capital projects fund to a state special revenue fund for the operation of veterans' homes.
 (3) Other funds include non-general fund sources, such as state and federal special revenue funds, private contributions, and miscellaneous "other" funds.
 (4) Excludes the \$3.5 million general fund appropriation to OPI for state advances and reimbursements for school facilities (HB5). This was not part of the long range building program.
 (5) Amounts provided for the 2005 biennium are based upon the Executive request.

Executive Recommendation

The executive request for the Long-Range Building Program totals \$46.1 million for the 2005 biennium. If approved as requested, LRBP appropriations for the next biennium would represent the smallest program in the past decade. Furthermore, this signifies a reduction of over 56.0 percent from the 2003 biennium. In the 2005 biennium, there will be no projects funded with bonds; all projects will be requested in HB 5, the cash program. The last biennium that the state was without a bonded program was in 1989. The funding of the various cash projects is as follows:

- \$2.3 million capital projects funding
- \$24.5 million state special revenue
- \$11.3 million federal special revenue
- \$8.0 million "other" funds

Figure 2 shows the projects recommended by the executive, listed by agency. These projects will be requested in HB 5 (cash projects). The projects are numbered to indicate priority.

Funding

Funding for the Long-Range Building Program comes from various sources: the long-range building program account, state special revenue funds, federal funds, and other funds (such as university funds, private funds, and capitol land grant funds).

| Figure 2 Long-Range Building Program Executive Recommendation - Cash Projects 2005 Biennium | | | | | | |
|--|---|--|---------------------|---------------------|--------------------|---------------------|
| Priority Rank | Project | Recommendations for HB 5 "Cash" Projects | | | | Total |
| | | LRBP | State Special | Fed Special | Other Funds | |
| Department of Administration | | | | | | |
| 1 | Roof Repairs/Replacements Statewide | \$956,000 | | | | \$956,000 |
| 3 | Code/Deferred Maint. & Disability Access Statewide | 550,000 | | | | 550,000 |
| 5 | Capitol Renovation Arbitration | 305,000 | | | | 305,000 |
| 6 | State Public Health Laboratory, Phase 2 | | | 1,474,000 | | 1,474,000 |
| 7 | Repair Front Stairs at State Capitol | | | 130,000 | 400,000 | 530,000 |
| 8 | Land Acquisition--Capitol Complex | | | | 600,000 | 600,000 |
| Department of Corrections | | | | | | |
| 9 | Dairy Expansion--Montana Correctional Enterprises | | | | 725,000 | 725,000 |
| Department of Fish, Wildlife, and Parks | | | | | | |
| 17 | Future Fisheries Program | | 910,000 | | | 910,000 |
| 18 | Fishing Access Site Maintenance | | 275,000 | | | 275,000 |
| 19 | Fishing Access Site Protection | | 600,000 | | | 600,000 |
| 20 | Fishing Access Site Acquisition | | 550,000 | 200,000 | | 750,000 |
| 21 | Hatchery Maintenance | | 575,000 | 575,000 | | 1,150,000 |
| 22 | Community Fishing Ponds | | - | 50,000 | | 50,000 |
| 23 | FWP Dams Repair | | 500,000 | | | 500,000 |
| 24 | Habitat Montana | | 6,900,000 | | | 6,900,000 |
| 25 | Upland Game Bird Program | | 2,300,000 | | | 2,300,000 |
| 26 | Wildlife Habitat Maintenance | | 800,000 | | | 800,000 |
| 27 | Migratory Bird Stamp Program | | 225,000 | | | 225,000 |
| 28 | Bighorn Sheep Enhancements | | 75,000 | | | 75,000 |
| 29 | Motorboat Recreation Site Improvements | | 1,250,000 | | | 1,250,000 |
| 30 | Cultural & Historical Park Improvements | | 800,000 | | | 800,000 |
| 31 | Federal Land & Water Conservation Fund Grants | | | 2,900,000 | | 2,900,000 |
| 32 | Federal Trails Grants | | | 1,900,000 | | 1,900,000 |
| 33 | Federal Off Highway Vehicle Trails Grants | | 375,000 | | | 375,000 |
| 34 | Federal Wallop/Breaux Projects | | | 1,500,000 | | 1,500,000 |
| 35 | Administrative Facilities Repair & Maintenance | | 800,000 | | | 800,000 |
| 36 | MT Wildlife Rehabilitation and Nature Cntr Complex | | 100,000 | 500,000 | 2,600,000 | 3,200,000 |
| Department of Military Affairs | | | | | | |
| 15 | Federal Spending Authority | | | 2,000,000 | | 2,000,000 |
| 16 | Re-roof Armories Statewide | | | 90,212 | | 90,212 |
| Department of Public Health and Human Services | | | | | | |
| 11 | Demolish Dormitory at MT Veteran's Home | | 231,600 | | | 231,600 |
| 12 | Renovate Historic "Old Main" Bldg at MT Vet's Home | | 2,252,000 | | | 2,252,000 |
| Department of Transportation | | | | | | |
| 13 | New Equipment Storage Facilities, Statewide | | 3,000,000 | | | 3,000,000 |
| 14 | Facility Maint., Repair and Small Projects, Statewide | | 2,000,000 | | | 2,000,000 |
| Montana University System-Statewide | | | | | | |
| 4 | Repair/Replace Deteriorated Campus Infrastructure | 300,000 | | | | 300,000 |
| University of Montana | | | | | | |
| 2 | Replace Electrical Primary Radial System, UM--Butte | 170,500 | | | 190,000 | 360,500 |
| 10 | General Spending Authority--All UM Campuses | - | - | - | 3,500,000 | 3,500,000 |
| Total Cash Programs: | | <u>\$2,281,500</u> | <u>\$24,518,600</u> | <u>\$11,319,212</u> | <u>\$8,015,000</u> | <u>\$46,134,312</u> |

Although the LRBP account does not represent the largest portion of funding for capital projects, the revenues allocated to this account represent the only specific commitment of state funds for capital projects. LRBP account revenues include 15.85 percent of cigarette tax revenue. Present law provides 12.0 percent of coal severance tax revenue, but the executive proposes to reduce the allocation to 10.0 percent through the 2005 biennium (see Vol. 1, Statewide Perspectives, Executive Revenue and Tax Policy Proposals). Other income includes LRBP interest earnings, and supervisory fees paid to the Architecture and Engineering Division (A&E) of the Department of Administration.

The LRBP account also receives some funds from the State Building Energy Conservation Program. Through this program, the state issues general obligation (G.O.) bonds, uses the bond proceeds to pay for energy efficiency improvements, then uses the resulting energy cost savings to pay the debt service on the bonds.

The projects are designed so that the cost savings exceed the bond debt service payments. Excess savings are transferred to the long-range building program.

Figure 3 shows the projected fund balance for the LRBP account for the 2005 biennium. As shown in Figure 2, approximately \$2.3 million is requested for cash projects in HB 5, leaving an estimated fund balance of a negative \$142,901 at the end of the 2005 biennium. The fund balance estimate includes the proposed reduction in coal severance tax distributions. This estimated ending fund balance, prepared by the LFD, is slightly lower than that shown in the Executive Budget (see note in figure 3), primarily because of two factors: 1) the LFD estimates a lower ending fund balance for fiscal 2003 than the executive; and 2) the net revenue estimated for the 2005 biennium is lower. The difference is approximately 1.5 percent of the total funds available for the 2005 biennium.

| Figure 3 Long-Range Building Program Account Fund Balance Projection 2005 Biennium | | | |
|---|-------------|----|--------------------|
| Estimated Beginning Cash Balance (July 1, 2003) | | | (\$1,048,999) |
| Revenues,* 2005 Biennium: | | | |
| Cigarette Tax | \$3,349,000 | | |
| Coal Severance Tax | 5,928,000 | ** | |
| Interest Earnings | 251,100 | | |
| Supervisory Fees | 202,192 | | |
| DEQ Transfer-Energy Savings | 404,295 | | |
| Total Revenues | | | 10,134,587 |
| Funds Available | | | 9,085,588 |
| Expenditures: | | | |
| Operating Costs-A & E Division | (2,471,259) | | |
| Debt Service-1996D | (3,541,831) | | |
| Debt Service-1997B | (882,967) | | |
| Debt Service-1999C | (1,380,932) | | |
| Debt Service Funding Switch, 2001 legislative session | 1,330,000 | | |
| Total Expenditures-Excluding Capital Projects | | | <u>(6,946,989)</u> |
| Funds Available for Capital Projects | | | 2,138,599 |
| Funding Proposals: | | | |
| Capital Construction Program-LRBP Projects Only | | | <u>(2,281,500)</u> |
| Estimated Ending Fund Balance | | | <u>(\$142,901)</u> |
| Note: The executive 2004 beginning fund balance is (\$1,022,054), and the fiscal 2005 ending fund balance is \$3,706. | | | |
| *Revenue estimates based on HJR 2 recommendations | | | |
| **Includes executive recommendation for reduction from 12% to 10% of coal severance tax | | | |

LFD ISSUE

The 2005 biennium will be a difficult budget cycle for the legislature and state agencies. The LRBP, along with all programs, has undergone large budgetary reductions in an attempt to lessen the pressures from diminished revenues. Even with the reductions in appropriations, the LRBP shows a negative cash fund balance in the 2005 biennium.

Article VIII, section 9 of the Montana Constitution states that appropriations of the legislature shall not exceed revenues. If the executive's proposal is accepted, the LRBP will be in violation of Article VIII, section 9. Further reductions to the program will be needed to avoid non-compliance.

Negative cash ending fund balances are not new to the LRBP. The 2001 Legislature approved a LRBP budget with a negative ending fund balance of \$30,268, approximately 0.4 percent of total appropriations for the LRBP cash program. However, actions to pass such a budget run contrary to the Constitutional mandate as well as the overall legislative consensus that budgets are fixed with an ending fund balance of at least a 2.0 percent of the total appropriations.

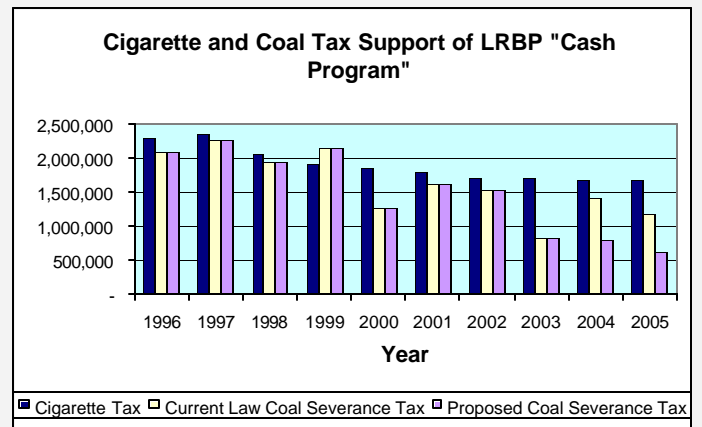
The legislature has chosen to provide a cushion for the state budget as a whole. There are reasons that make such an action logical. First, all the projections for future spending and earnings are estimates. With that said, there is no way to know how much money will actually be flowing into the program, and similarly there is no way to know exactly how much money will actually be required for operations. Because budgets are necessarily based on estimates, it is reasonable to provide a cushion to guard against the potential problems associated with reduced revenues or increased expenses. The LRBP might consider several alternatives in managing this problem. 1) The committee could leave the balance negative; 2) make further reductions to the LRBP cash program to leave a zero or small ending fund balance; or 3) reduce the program even further to provide a cushion to guard against reduced cash flows into the program or increased expenditures. Should the LRBP choose the third option, program reductions and/or revenue enhancements of approximately \$327,000 would be required to leave a cushion of 2.0 percent of appropriations for the LRBP.

**LFD
ISSUE**

The LRBP is experiencing reduced revenues that could in the future become a significant problem. The LRBP cash program has been supported by distributions from cigarette tax for many years. Coal severance support was added to the LRBP to provide debt service payments on three bond issues and since has become of increasing importance to the support of the program. These two revenue sources provide the greatest part of the funding for the LRBP. Unfortunately, both the cigarette tax and the coal severance tax sources are experiencing diminished revenue collections, as seen in the chart below. The proposed reduction of coal tax distribution in the 2005 biennium only aggravates the problem. Consequently, priority projects, such as deferred maintenance, must be reduced in the 2005 biennium.

Deferred maintenance is the vehicle used to care for and maintain state buildings. Without a comprehensive deferred maintenance program, the state would likely incur increased expenses in state buildings. The cost of deferred maintenance increases both as an issue of time (maintenance costs increase as building grow older and inflation increases costs in time) and as buildings are added to the state's inventory.

Reduced revenues and increased expenses can only equate to problems for the LRBP in the future. The LRBP may wish to discuss this funding issue and attempt to determine what actions might be required to avoid potential problems in the future.



TREASURE STATE ENDOWMENT PROGRAM

Program Description

The Treasure State Endowment Program (TSEP) is a state infrastructure-financing program approved by Montana voters with the passage of Legislative Referendum 110 in June 1992. Grant funding for the program is derived from investment earnings on coal severance tax funds. TSEP loans are funded with proceeds from bonds backed by coal severance tax collections. According to 90-6-702, MCA, the purpose of TSEP is to assist local governments in funding infrastructure projects that will:

- Create jobs for Montana residents
- Promote economic growth in Montana by helping to finance the necessary infrastructure
- Encourage local public facility improvements
- Create a partnership between the state and local governments to make necessary public projects affordable
- Support long-term, stable economic growth in Montana
- Protect future generations from undue fiscal burdens caused by financing necessary public works
- Coordinate and improve infrastructure financing by federal, state, local government, and private sources
- Enhance the quality of life and protect the health, safety, and welfare of Montana citizens

Infrastructure projects include drinking water systems, wastewater treatment facilities, sanitary sewer or storm sewer systems, solid waste disposal and separation systems, and bridges.

Eligible applicants include cities, towns, counties, and tribal governments, or county or multi-county water, sewer or solid waste districts. TSEP applications are submitted to the Department of Commerce (DOC) on a biennial basis where they are evaluated according to a two-step process and are ranked according to: 1) ten statutory priorities; and 2) relative financial need. The seven statutory priorities focus on projects that:

- Solve urgent and serious public health or safety problems or that enable local governments to meet state or federal health or safety standards
- Reflect greater need for financial assistance than other projects
- Incorporate appropriate, cost-effective technical design and that provide thorough, long-term solutions to community public facility needs
- Reflect substantial past efforts to ensure sound, effective, long-term planning and management of public facilities and that attempt to resolve the infrastructure problem with local resources
- Enable local governments to obtain funds from sources other than TSEP
- Provide long-term, full-time job opportunities for Montanans, provide public facilities necessary for the expansion of a business that has a high potential for financial success, or maintain the tax base or encourage expansion of the tax base
- Are high local priorities and have strong community support

The DOC administers TSEP and makes recommendations for grant and loan awards to the executive. The executive makes funding recommendations to the Montana legislature. The legislature makes the final decisions on the award of TSEP funds.

Grants have been the primary source of TSEP funding awarded since program inception. In fact, only eight loans were authorized by the legislature in the first three funding cycles and to date, none of the successful applicants have opted to secure a TSEP loan. There are several other federal and state sources available to communities for low-interest loans, but grant funds, which help make expensive local public facility projects more affordable and financially feasible, are extremely limited. Figure 4 shows the history of TSEP awards made for the 1995 through 2005 biennia.

Executive Recommendation

The executive recommendation contains several changes that will impact the TSEP in the future. Among the executive proposals is a diversion of \$8.4 million, using HJR 2 estimates, of the expected TSEP interest earnings to replace general fund K-12 school facility payments (the executive recommendation estimates the diversion to be \$8.5 million). This represents a reduction of half in both dollar and project terms, from the 2003 biennium. The executive further proposes to increase coal severance tax bond funding from 50.0 percent to 75.0 percent. Over time, this change will increase the corpus of the Treasure State Endowment Fund and generate additional interest to fund the ongoing K-12 school facility payments and future TSEP grants. Next, the executive proposes an addition of one FTE civil engineer for the department to assist with the technical issues related to the preliminary engineering studies and the emergency projects. Finally, the proposal suggests a continuation of the \$100,000 emergency grant allocation.

The Department of Commerce received 55 applications for TSEP grants totaling, \$21.9 million, and no applications for loan funds for the 2005 biennium. Considering the proposed changes, the executive recommendation for TSEP includes funding for 17 projects, with the City of Conrad project, the 17th priority, recommended to receive \$387,230 of the requested \$500,000. This amounts to a total of \$7.0 million. The recommendation list also includes 3 projects (\$1.1 million) that would be contingent upon the availability of funding. Figure 5 provides a list of the executive TSEP recommendations for the 2005 biennium, which will be introduced in HB 11. Projects are listed in priority order.

Figure 4

Treasure State Endowment Program
Grant and Loan Awards by Biennium
(in millions)

| Biennium | Number of Projects <u>Approved & Funded</u> | | Grant Awards | Loan Awards |
|----------|--|-------|-----------------|----------------|
| | Grants | Loans | | |
| 1995 | 20 | 4 | \$ 3.966 | \$ 0.168 |
| 1997 | 15 | 0 | 4.991 | - |
| 1999 | 22 | 4 | 9.111 | 1.905 |
| 2001 | 21 | 0 | 12.596 | - |
| 2003 | 34 | 0 | 15.172 | - |
| *2005 | 55 | 0 | 6.974 | - |

* The data for the 2005 biennium represents the executive request for TSEP funding, which is subject to approval by the 2003 legislature.

LFD ISSUE

The executive has made a series of proposals that significantly impact TSEP. First, the executive proposes to divert 50.0 percent of TSEP interest earnings during the 2005 biennium to relieve the general fund of \$8.4 million in K-12 school facility payments. Next, the executive proposes to continue funding the K-12 facility payments with TSEP interest earnings amounting to \$4.36 million on an ongoing annual basis. Finally, in order to boost the interest remaining for TSEP grants, the executive has increased the flow to the Treasure State Endowment Fund from the coal severance tax by 12.5 percent.

To support the additional interest requirement of \$4.36 million of K-12 facility payments, approximately \$57.0 million in added corpus would be required. To transfer that amount of coal severance tax to the Treasure State Endowment Fund, with the added appropriation of 12.5 percent of coal severance tax, will take approximately 14 years.

TSEP is slated to lose nearly 50.0 percent of their grant project funding in the 2005 biennium, and the addition of 12.5 percent of coal severance tax will not increase the corpus enough to fund the K-12 payments with additional interest for over 14 years. The executive proposal will terminate in 2013, only ten years. Consequently, the TSEP program will never have the funds necessary to fund projects at present law levels, and will not be held harmless in this set of proposals.

The committee should give consideration to the impacts of the executive proposals that effect TSEP. Other solutions may be available to help TSEP retain its project funding. One alternative that the committee might investigate is the ability to issue bonds, backed with the TSEP fund and paid with TSEP interest earnings, to pay the K-12 facility obligations. Lacking an alternative option for the executive recommendations, TSEP will never have the ability to fund projects as expected.

Figure 5
Treasure State Endowment Program
Grant Recommendations
2005 Biennium

| Rank Order | Applicant | Requested Grant Award | Proposed Grant Award* | Cumulative Grant Award |
|---------------|-------------------------------------|--------------------------|--------------------------|---------------------------|
| 1 | Lewis & Clark County | \$170,575 | \$170,575 | \$170,575 |
| 2 | Judith Basin County/Geyser District | 330,000 | 330,000 | 500,575 |
| 3 | Madison County | 249,058 | 174,529 | 675,104 |
| 4 | Town of Chinook | 500,000 | 500,000 | 1,175,104 |
| 5 | Sweet Grass County | 235,954 | 235,954 | 1,411,058 |
| 6 | Stillwater County | 500,000 | 500,000 | 1,911,058 |
| 7 | Power-Teton County District | 500,000 | 500,000 | 2,411,058 |
| 8 | Richland County | 351,625 | 351,625 | 2,762,683 |
| 9 | Town of Stanford | 500,000 | 500,000 | 3,262,683 |
| 10 | Town of Hamilton | 500,000 | 500,000 | 3,762,683 |
| 11 | Town of Troy | 500,000 | 500,000 | 4,262,683 |
| 12 | Town of Scobey | 500,000 | 500,000 | 4,762,683 |
| 13 | Missoula | 500,000 | 500,000 | 5,262,683 |
| 14 | Blain County | 480,400 | 322,782 | 5,585,465 |
| 15 | Upper-Lower River Road District | 500,000 | 500,000 | 6,085,465 |
| 16 | Town of Polson | 500,000 | 500,000 | 6,585,465 |
| 17 | Town of Conrad | 500,000 | 500,000 | 7,085,465 |
| 18 | Town of Glendive | 139,133 | 139,133 | 7,224,598 |
| 19 | Sheavers Creek District | 500,000 | 500,000 | 7,724,598 |
| 20 | Gallatin County | 500,000 | 500,000 | 8,224,598 |
| 21 | Gardiner/Park County District | 500,000 | 500,000 | 8,724,598 |
| 22 | Phillips Co Green Meadows District | 112,500 | 112,500 | 8,837,098 |
| 23 | Town of Geraldine | 500,000 | 500,000 | 9,337,098 |
| 24 | Missoula County | 499,335 | 499,335 | 9,836,433 |
| 25 | Ramsay County District | 255,000 | 255,000 | 10,091,433 |
| 26 | Cooke City-Park County District | 500,000 | 500,000 | 10,591,433 |
| 27 | Worden Ballentine District | 500,000 | 500,000 | 11,091,433 |
| 28 | Town of Wolf Point | 500,000 | 500,000 | 11,591,433 |
| 29 | Town of Ryegate | 478,700 | 478,700 | 12,070,133 |
| 30 | Cascade County | 230,840 | 230,840 | 12,300,973 |
| 31 | Town of Libby | 500,000 | 500,000 | 12,800,973 |
| 32 | Beaverhead County District (Wisdom) | 500,000 | 500,000 | 13,300,973 |
| 33 | Hill County | 175,803 | 175,803 | 13,476,776 |
| 34 | Town of Jordan | 459,883 | 459,883 | 13,936,659 |
| 35 | Pablo-Lake County District | 500,000 | 500,000 | 14,436,659 |
| 36 | Town of Ekalaka | 212,697 | 154,197 | 14,590,856 |
| 37 | Pondera County | 137,500 | 137,500 | 14,728,356 |
| 38 | Black Eagle District | 214,200 | 214,200 | 14,942,556 |
| 39 | Lake County Solid Waste District | 500,000 | 500,000 | 15,442,556 |
| 40 | Sheridan County | 210,775 | 210,775 | 15,653,331 |
| 41 | Town of Whitefish | 500,000 | 500,000 | 16,153,331 |
| 42 | Town of Belgrade | 500,000 | 500,000 | 16,653,331 |
| 43 | Yellowstone County | 172,710 | 172,710 | 16,826,041 |
| 44 | Town of St. Ignatius | 500,000 | 500,000 | 17,326,041 |
| 45 | Lockwood District | 500,000 | 500,000 | 17,826,041 |
| 46 | Town of Columbia Falls | 220,000 | 220,000 | 18,046,041 |
| 47 | Pleasant View Homesites District | 210,140 | 210,140 | 18,256,181 |

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| Figure 5 (Continued) | | | | |
|---|--------------------------|--------------------------|--------------------------|---------------------------|
| Treasure State Endowment Program | | | | |
| Grant Recommendations | | | | |
| 2005 Biennium | | | | |
| Rank Order | Applicant | Requested Grant Award | Proposed Grant Award* | Cumulative Grant Award |
| 48 | Butte-Silver Bow | \$403,006 | \$403,006 | \$18,659,187 |
| 49 | Town of Three Forks | 327,000 | 327,000 | 18,986,187 |
| 50 | Big Sky District | 500,000 | 500,000 | 19,486,187 |
| 51 | Helena | 500,000 | 500,000 | 19,986,187 |
| 52 | Homestead Acres District | 147,815 | 147,815 | 20,134,002 |
| 53 | Town of Columbus | 500,000 | 500,000 | 20,634,002 |
| 54 | Town of Miles City | 500,000 | 500,000 | 21,134,002 |
| 55 | Meadowlark District | 477,500 | 0 | 21,134,002 |
| Total Proposed Grant Awards: | | <u>\$21,902,149</u> | <u>\$21,134,002</u> | |
| * These applicants are recommended for grant awards contingent upon availability of TSEP funds. | | | | |

Funding

In July 1993, \$10.0 million was transferred from the coal severance tax permanent trust fund to the Treasure State Endowment Trust Fund (TSEF). In addition, the trust receives 37.5 percent (75.0 percent of 50.0 percent) of the coal severance tax revenues deposited into the permanent trust through fiscal 2003, at which time funding is reduced to 25.0 percent (50.0 percent of 50.0 percent). Funding for TSEP grants comes from the investment earnings on the Treasure State Endowment Trust, which are deposited into a TSEP state special revenue account. TSEF investment earnings for the 2005 biennium are projected to total \$16.3 million before the impact of the executive proposals.

From the 1999 session, the TSEP grants were also slated to receive \$4.6 million in funding in the 2001 biennium and \$1.2 million in subsequent biennia from an allocation of the coal producer license tax enacted in HB 260 (1999). This funding mechanism disappeared when HB 260 was declared unconstitutional. In the special session that followed (May 2000), the legislature replaced some of that funding with a \$3.0 general fund appropriation for the 2001 biennium.

In order to provide “start-up” funds for TSEP, the 1993 legislature authorized the DOC to borrow money from the Board of Investments (BOI), resulting in a \$4.1 million loan, which was completely repaid by fiscal year end 2001.

Figure 6 shows the projected fund balance for the treasure state endowment state special revenue account for the 2005 biennium under present law assumptions.

Total new revenue and carryover funds in this account are estimated at \$16.3 million for the biennium. Expenditures amount to \$1.4 million and include \$0.9 million in administrative costs, \$100,000 for the emergency grants program, and a \$0.4 million statutory appropriation for pre-engineering. Under present law, \$14.9 million is available for TSEP grants, enough to fund the first 38 projects seen in Figure 2.

| Figure 6 | | |
|--|-----------|---------------------|
| Treasure State Endowment Program | | |
| Fund Balance Projection-Present Law | | |
| 2005 Biennium | | |
| Estimated Beginning Fund Balance ¹ | | \$0 |
| Revenue Projections ² | | |
| 2004 Interest | 7,871,000 | |
| 2005 Interest | 8,472,000 | |
| 2005 Biennium Funds Available | | 16,343,000 |
| Proposed Expenditures | | |
| Administration - Commerce ³ | 812,305 | |
| Administration - DNRC | 54,000 | |
| Emergency Grants ⁴ | 100,000 | |
| Water/Sewer Pre-engineering - SA | 425,000 | |
| Total Expenditures | | 1,391,305 |
| Funds Available for Grants | | <u>\$14,951,695</u> |
| Proposed Grants | | <u>\$21,902,149</u> |
| ¹ Beginning balance of \$0 is used because the programs are expected to spend all grants from previous years. | | |
| ² Based on HJR 2 revenue estimate | | |
| ³ Includes 1 additional FTE Civil Engineer per the Executive Budget. | | |
| ⁴ Based on amount to be requested during the 2005 biennium. | | |

Figure 7 shows the projected fund balance for the treasure state endowment state special revenue account for the 2005 biennium under the provisions of the Executive Budget. The recommended law changes would reduce available funds for the 2005 biennium by \$8.0 million, to \$7.0 million, and the number of projects by 21. The list of projects recommended would include the first 16 projects in entirety and the 17 project, the City of Conrad, with a reduced award of \$387,230.

| Figure 7 Treasure State Endowment Program Fund Balance Projection-Executive Recommendation 2005 Biennium | | |
|---|------------------|---------------------|
| Estimated Beginning Fund Balance ¹ | | \$0 |
| Revenue Projections | | |
| 2005 Biennium Interest ² | 16,343,000 | |
| Executive Recommendation ³ | 480,000 | |
| Total Interest Available | | 16,823,000 |
| Proposed Fund Diversion ⁴ | <u>8,411,500</u> | |
| Total Funds Available | | 8,411,500 |
| Proposed Expenditures | | |
| Administration - Commerce ⁵ | 812,305 | |
| Administration - DNRC | 54,000 | |
| Emergency Grants ⁶ | 100,000 | |
| Water/Sewer Pre-engineering - SA | <u>425,000</u> | |
| Total Expenditures | | <u>1,391,305</u> |
| Funds Available for Grants | | <u>\$7,020,195</u> |
| Proposed Grants | | <u>\$21,902,149</u> |

¹Beginning balance of \$0 is used because the programs are expected to spend all grants from previous years.
²Based on HJR 2 Assumptions
³Based on change of coal severance distribution to TSEP, from 50 percent to 75 percent.
⁴Based on Executive recommendation to divert funds to replace general fund K-12 school facility payments.
⁵Includes 1 additional FTE Civil Engineer per the Executive Budget.
⁶Based on amount to be requested during the 2005 biennium.

LFD ISSUE

The LFD estimates the changes in TSEP interest earnings by applying proposed law changes to HJR 2 estimates. The executive did not use the HJR 2 assumptions when determining the amount of interest that would be available to the program.

LFD ISSUE

Funding for DNRC - Loans granted under the TSEP are issued by the Department of Natural Resources and Conservation (DNRC) in conjunction with loans issued for the Renewable Resource Grant and Loan Program. Consequently, since the inception of the TSEP, DNRC has been appropriated TSEP interest earnings to cover costs associated with loan issuance and administration. As shown in the fund balance projection table (Figure 7), \$54,000 has been budgeted for DNRC administrative expenditures for the 2005 biennium. For the 1995 through 2003 biennia, DNRC received HB 2 appropriations totaling over \$287,000 in TSEP funds.

As mentioned above, however, only eight loans have been granted since program inception and no requests for TSEP loans were received for the 2005 biennium. Moreover, as previously stated, none of the eight entities receiving loans have opted to secure them. Thus, the executive provides no justification for appropriating TSEP funds to DNRC when the department has not actually been required to issue bonds for TSEP loan awards. If the 2003 legislature appropriates the \$54,000 requested by DNRC for this purpose, the result will be a total of \$341,000 in TSEP funds being granted to cover administrative costs rather than being made available to local governments. Therefore, the 2001 legislature may want to seek justification from the executive prior to appropriating \$50,000 in TSEP funds to DNRC when no loan requests have been realized.

STATE BUILDING ENERGY CONSERVATION

Program Description

The State Building Energy Conservation Program (SBECP), administered by the Department of Environmental Quality (DEQ), was established by the 1989 legislature to reduce operating costs of state facilities by identifying and funding cost-effective energy efficiency improvement projects. Energy efficiency improvements include:

- Replacing old, inefficient boilers
- Upgrading inefficient lighting
- Increasing ventilation system efficiency
- Insulating buildings
- Providing more effective temperature controls

Through this program, the state issues general obligation (GO) bonds, uses the bond proceeds to pay for energy efficiency improvements, then uses the resulting energy cost savings to pay the debt service on the bonds. The projects are designed so that the cost savings exceed the bond debt service payments. Excess savings are transferred to the Long-Range Building Program. To date, 52 energy conservation projects have been completed through the SBECP, and an additional 12 projects are in various stages of completion. Since program inception, the state has spent a total of \$4.4 million in oil overcharge funds and \$6.5 million in GO bond proceeds to fund the projects.

Since the program was started in fiscal 1994 through fiscal 2002, the SBECP has captured energy savings of \$6.2 million. Agencies that have completed or substantially completed projects have incorporated savings into their budgets of \$1.9 million. All savings that remain after the DEQ pays interest and principle on the related bond issues are “swept” into the LRBP to fund additional projects. \$954,233 has been swept into LRBP to date, and the estimated sweep for the next biennium is \$404,295.

Executive Recommendation

The executive proposal for the SBECP for the 2005 biennium calls for the 2003 legislature to authorize the state Board of Examiners to issue up to \$2.5 million in GO bonds for the purpose of funding energy conservation projects. Following is a list of projects identified by the executive for the SBECP for fiscal years 2004 and 2005.

Projects in Design or Construction

Dept of Public Health and Human Services

- MT Mental Health Nursing Care Center, Lewistown
- Energy efficiency upgrades are being included in the design of a new cooling system for the facility. An energy study is being completed on the heating plant to identify energy improvements.

Projects in Development

Department of Administration

Mitchell Building, Helena

Cooling system upgrade for energy and water savings. Other efficiency measures will be identified through additional studies.

Dept of Public Health and Human Services

Spratt Building, Warm Springs

Upgrade lighting system and temperature control system in building. Other efficiency upgrades will be identified through additional studies.

Department of Corrections

Montana State Prison, Deer Lodge

Campus-wide energy study is near completion to determine a comprehensive list of eligible energy saving projects.

Department of Fish, Wildlife and Parks

FWP Headquarters, Kalispell

FWP Headquarters, Missoula

Lighting system upgrades with rebates from the Northwestern Utility USBC Program.

University Montana

Health Sciences Building, Missoula

Cooling system upgrade with ground water cooling replacing mechanical cooling.

Preliminary LRBP Projects

All of the proposed HB 12 projects have been coordinated with the LRBP selection process.

Funding

The authority for the issuance of GO bonds to finance the projects listed above will be requested in HB 12. Up to \$2.5 million in bond proceeds from the sale of general obligation bonds are to be used to fund the energy efficiency improvements, \$500,000 less than approved in the 2003 biennium. The savings in energy costs that result from the projects are used to make the bond payments and fund future projects.

RESOURCE INDEMNITY TRUST GRANT AND LOAN PROGRAM

Program Description

Resource indemnity trust (RIT) funds are a major source of revenue for several natural resource agencies and programs, including the Renewable Resource Grant and Loan Program (RRGL) and the Reclamation and Development Grant Program (RDGP). The RIT receives income from two sources: 1) the resource indemnity and ground water assessment tax (RIGWAT); and 2) an allocation of oil and gas production tax revenues. The Board of Investments invests funds deposited in the RIT and some of the investment earnings are used to fund the RRGL and RDGP. For more detailed information on the allocation and expenditure of other RIT proceeds and RIT interest earnings, see the Department of Natural Resources and Conservation (DNRC) summary in Section C of the LFD Budget Analysis, Volume 3, page C-123.

RENEWABLE RESOURCE GRANT AND LOAN PROGRAM

In accordance with 15-38-202, MCA, a total of \$2.0 million in RIT interest earnings is allocated to the RRGL account each year for the purpose of making grants. Created by the 1993 legislature, the RRGL combines the former Renewable Resource Development Program, established in 1975, and the Water Development Program, established in 1981. As outlined under Title 85, Chapter 1, part 6, MCA, the purpose of the RRGL is to fund projects that “enhance Montana's renewable resources through projects that measurably conserve, develop, manage, or preserve resources.” The \$2.0 million statutorily allocated each year to the RRGL is deposited into the renewable resource grant and loan program state special revenue account.

DNRC administers the RRGL, which involves a biennial application process. DNRC and a technical review team initially evaluate each application for economic and technical feasibility, as well as to ensure that proposed projects are located in Montana. Qualifying applications are then examined according to six criteria:

- Financial feasibility
- Adverse environmental impact
- Technical merit
- Public benefit
- Need
- Urgency

DNRC submits a list of funding recommendations to the Governor, who reviews the list and submits recommendations to the legislature. Funding for projects comes in the form of grants and/or loans made to both public and private entities. The legislature has final approval for the awarding of RRGL grants and loans, which will be introduced in HB 6 and HB 8, respectively.

Eligible applicants include:

- A department, agency, board, commission, or other division of state government
- A city, county, or other political subdivision or local government body of the state
- A tribal government

Executive Recommendation

Grants

Figure 8 shows a priority listing of the RRGL grants recommended by the executive for the 2005 biennium. DNRC received a total of 73 applications. HB 6 will include a list of 62 projects estimated to cost \$6.0 million. The \$4.0 million statutorily allocated to fund grants will be limited in the 2005 biennium to \$3.75 million, which translates into the 38 highest priority projects. Of the remaining \$225,000, \$125,000 will fund the DNRC emergency grant program and \$100,000 will be used for project planning grants awarded by the department over the biennium.

Figure 8
Renewable Resource Grant and Loan Program
2005 Biennium

| Rank | Sponsor/Project | Request | Executive Recommendation | Cumulative Total |
|--------------------------|---|-----------|--------------------------|------------------|
| 1 | Scobey, City of Wastewater System Improvements | \$100,000 | \$100,000 | \$100,000 |
| 2 | Dawson County Yellowstone River Floodplain Management | 100,000 | 100,000 | 200,000 |
| 3 | Flathead Basin Commission Ashley Creek Headwater Restoration | 99,700 | 99,700 | 299,700 |
| 4 | Missoula, City of Rattlesnake Neighborhood Sewer Collection System | 100,000 | 100,000 | 399,700 |
| 5 | North Powell Conservation District Blackfoot River Habitat, Water Quality, and Restoration | 62,600 | 62,600 | 462,300 |
| 6 | Montana Department of Agriculture Monitoring Well Network for Assessment of Ag Chem | 100,000 | 100,000 | 562,300 |
| 7 | Paradise Valley Irrigation District Hillside Lateral | 100,000 | 100,000 | 662,300 |
| 8 | Ramsay County Water and Sewer District Water System Improvements | 100,000 | 100,000 | 762,300 |
| 9 | Missoula County Mullen Road Corridor Sewer Project - Phase I | 100,000 | 100,000 | 862,300 |
| 10 | Park County North Park County Water Resources Protection/Mgmt | 100,000 | 100,000 | 962,300 |
| 11 | Sheaver's Creek Water and Sewer District Water System Improvements | 100,000 | 100,000 | 1,062,300 |
| 12 | Stanford, Town of Water System Improvements | 100,000 | 100,000 | 1,162,300 |
| 13 | Hamilton, City of Water Distribution System | 100,000 | 100,000 | 1,262,300 |
| 14 | Park County-Cooke City Water District Water System Improvements | 100,000 | 100,000 | 1,362,300 |
| 15 | Milk River Joint Board of Control Saint Mary Siphon Expansion Joint Replacement | 100,000 | 100,000 | 1,462,300 |
| 16 | Buffalo Rapids Irrigation Project Refit of Glendive Pumping Plant | 100,000 | 100,000 | 1,562,300 |
| 17 | Mill Creek Irrigation District Mill Lake Dam Rehabilitation | 100,000 | 100,000 | 1,662,300 |
| 18 | Montana Department of Natural Resources and Conserv Seepage Monitoring Project - DNRC Dams | 97,646 | 97,646 | 1,759,946 |
| 19 | Sidney Water Users Irrigation District Increasing Irrigation Efficiency | 100,000 | 100,000 | 1,859,946 |
| 20 | Stillwater County Yellowstone River Floodplain Management | 100,000 | 100,000 | 1,959,946 |
| 21 | Yellowstone County Yellowstone River Floodplain Management | 100,000 | 100,000 | 2,059,946 |
| (Continued on next page) | | | | |

Figure 8 (continued)
Renewable Resource Grant and Loan Program
2003 Biennium

| Rank | Sponsor/Project | Request | Executive Recommendation | Cumulative Total |
|--------------------------|---|-----------|--------------------------|------------------|
| 22 | Worden-Ballantine Yellowstone Cnty Water/Sewer Dist Water System Improvements | \$100,000 | \$100,000 | \$2,159,946 |
| 23 | Ryegate, Town of Water System Improvements | 100,000 | 100,000 | 2,259,946 |
| 24 | Malta Irrigation District Replacement and Modification of Check Structures | 100,000 | 100,000 | 2,359,946 |
| 25 | Judith Basin County Geyser Water System Improvements | 100,000 | 100,000 | 2,459,946 |
| 26 | Blackfeet Tribe Oki Mamii (Hello Fish) | 23,581 | 23,581 | 2,483,527 |
| 27 | Sheridan, Town of Water System Improvements | 100,000 | 100,000 | 2,583,527 |
| 28 | Pablo-Lake County Water and Sewer District Wastewater Treatment System | 100,000 | 100,000 | 2,683,527 |
| 29 | Fort Belknap Irrigation District Sugar Factory Lateral | 100,000 | 100,000 | 2,783,527 |
| 30 | Montana Department of Natural Resources and Conserv North Fork of the Smith River Dam Rehabilitation | 100,000 | 100,000 | 2,883,527 |
| 31 | Conrad, City of Raw Water Intake and Pump Station Improvements | 100,000 | 100,000 | 2,983,527 |
| 32 | Lewis and Clark County Water Quality Protection Dstr Groundwater Sustainability in North Hills Area, Helena | 100,000 | 100,000 | 3,083,527 |
| 33 | Power Teton County Water and Sewer District Water System Improvements | 100,000 | 100,000 | 3,183,527 |
| 34 | Phillips County Green Meadows Water and Sewer Dst Water System Improvements | 100,000 | 100,000 | 3,283,527 |
| 35 | Chinook Division Irrigation Joint Board of Control Fresno Dam - Gate Leaf Seals | 100,000 | 100,000 | 3,383,527 |
| 36 | Upper/Lower River Road Water and Sewer District Water System Improvements | 100,000 | 100,000 | 3,483,527 |
| 37 | Gallatin Local Water Quality District Dedicated Monitoring Well Network for Gallatin Valley | 99,883 | 99,883 | 3,583,410 |
| 38 | Troy, City of Water System Improvements | 100,000 | 100,000 | 3,683,410 |
| 39 | Montana Department of Corrections Rehabilitation of Prison Ranch Dam | 100,000 | 100,000 | 3,783,410 |
| 40 | Fort Shaw Irrigation District Water Quality and Quantity Improvements - Phase III | 89,122 | 89,122 | 3,872,532 |
| 41 | Butte-Silver Bow Local Government Basin Creek Dams #1 & #2 Site Improvements | 100,000 | 100,000 | 3,972,532 |
| 42 | Hill County Beaver Creek Dam Outlet Works Repair | 100,000 | 100,000 | 4,072,532 |
| (Continued on next page) | | | | |

| Figure 8 (continued) Renewable Resource Grant and Loan Program 2003 Biennium | | | | |
|--|--|----------|--------------------------|------------------|
| Rank | Sponsor/Project | Request | Executive Recommendation | Cumulative Total |
| 43 | Melstone, Town of Water Conservation Project | \$99,929 | \$99,929 | \$4,172,461 |
| 44 | Glasgow Irrigation District Vandalia Diversion Dam Rehabilitation - Phase III | 100,000 | 100,000 | 4,272,461 |
| 45 | Richland County Conservation District Irrigation Groundwater Under Lower Yellowstone Valley | 85,212 | 85,212 | 4,357,673 |
| 46 | Milk River Joint Board of Control Nelson Reservoir Pumping Design/Construction-Fin Rprt | 100,000 | 100,000 | 4,457,673 |
| 47 | Pablo-Lake County Water and Sewer District Water Distribution System | 100,000 | 100,000 | 4,557,673 |
| 48 | Cut Bank, City of Water System Improvements | 100,000 | 100,000 | 4,657,673 |
| 49 | Pleasant View Homesites County Water and Sewer Dst Water System Improvements | 100,000 | 100,000 | 4,757,673 |
| 50 | Gardiner-Park County Water District Water System Improvements | 100,000 | 100,000 | 4,857,673 |
| 51 | Huntley Project Irrigation District Anita Reservoir Dam Safety Repairs/Sediment Removal | 100,000 | 100,000 | 4,957,673 |
| 52 | Whitefish, City of Water Distribution Improvements | 100,000 | 100,000 | 5,057,673 |
| 53 | Black Eagle Water District Wastewater System Improvements | 50,000 | 50,000 | 5,107,673 |
| 54 | Montana Bureau of Mines & Geology Irrigation Technical Assistance Project | 99,925 | 99,925 | 5,207,598 |
| 55 | Geraldine, Town of Water System Improvements - Phase II | 100,000 | 100,000 | 5,307,598 |
| 56 | Harlem Irrigation District Lower Harlem Irrigation Canal Improvements - Phase I | 100,000 | 100,000 | 5,407,598 |
| 57 | Meadowlark Water and Sewer District Wastewater Collection System | 100,000 | 100,000 | 5,507,598 |
| 58 | Columbia Falls, City of 4th Avenue West Water and Sewer Upgrade | 100,000 | 100,000 | 5,607,598 |
| 59 | Columbus, Town of Stormwater Improvement | 100,000 | 100,000 | 5,707,598 |
| 60 | Libby, City of Johnston Acres Water System Improvements | 100,000 | 100,000 | 5,807,598 |
| 61 | Three Forks, City of Water System Improvements | 100,000 | 100,000 | 5,907,598 |
| 62 | Lake County Solid Waste District Solid Waste Transfer Station | 100,000 | 100,000 | 6,007,598 |
| Total Recommended for 2005 Biennium: | | | <u>\$6,007,598</u> | |

Loans

As presented in HB 8 (as drafted), the Executive Budget recommendations for loans under the Renewable Resource Grant and Loan Program total \$8.1 million for projects in which loans are requested and approved. It also includes \$2.9 million that would be made available as loans to finance projects that requested grants, but for which sufficient funds are not available. The new loan request is increased by \$100,000 to insure that no grantee/borrower will lose funding. Another \$1.1 million would be used to establish a reserve for bonds. This totals \$12.2 million. A complete listing of the projects is shown in Figure 9.

HB 8 would authorize the Board of Examiners to issue coal severance tax bonds in the amount of \$12.2 million, proceeds of which are to be used for this purpose, and are appropriated by HB 8 to the Department of Natural Resources for financing the projects identified in the bill. Loan repayments from the loans financed with coal severance tax bonds are used to pay the debt service. Because the loans authorized in HB 8 are sometimes offered at reduced rates, coal severance tax revenues subsidize these reduced rates. Consequently, less principal is invested in the Treasure State Endowment Fund, the Treasure State Endowment Regional Water System Fund, and, under current law, the Permanent Coal Trust Fund. As a result, the trust earns lower interest. Under present law, this will affect the amount of interest that is deposited into the general fund through the permanent coal trust.

Because these are general obligation bonds, they constitute a state debt that requires a two-thirds vote of the members of each house. Furthermore, because the money from the coal severance tax bond fund is pledged for debt service payments on the bonds, HB 8 also requires a three-fourths vote of the members of each house, as required by the Montana constitution.

The department (DNRC) is seeking authorization to extend the lending ability of the program. If approved by the legislature, SB 5 will increase DNRC bonding authority to \$30.0 million. Currently, the department may not have outstanding renewable resource bonds of more than \$20.0 million. This action will provide the department with a greater ability to fund natural resource projects including groundwater studies, irrigation rehabilitation, water and soil conservation, municipal drinking water improvements, public wastewater, and forest enhancement.

Figure 9
Renewable Resource Grant and Loan Program Loans
2005 Biennium

| Sponsor/Project | Loan Request | Cumulative Total |
|---|--------------|------------------|
| <u>Section 1, Group A Projects*</u> | | |
| Buffalo Rapids | | |
| Refit of Glendive Pumping Plant | \$1,315,000 | \$1,315,000 |
| Mill Creek Irrigation District | | |
| Mill Lake Dam Rehabilitation | 572,000 | 1,887,000 |
| Montana DNRC | | |
| North Fork of the Smith River Dam Rehabilitation | 557,000 | 2,444,000 |
| Hill County | | |
| Beaver Creek Dam Outlet Works Repair | 500,000 | 2,944,000 |
| <u>Section 2, Group A Projects**</u> | | |
| Hill County | | |
| Water Treatment Plant | 400,000 | 3,344,000 |
| Lockwood Water and Sewer District | | |
| Wastewater Collection and Treatment Works | 3,300,000 | 6,644,000 |
| <u>Section 2, Group B Projects</u> | | |
| Department of Natural Resources and Conservation | | |
| Nevada Creek Dam Rehabilitation | 494,041 | 7,138,041 |
| <u>Section 2, Group C Projects</u> | | |
| Lower Willow Creek Drainage District | | |
| Lower Willow Creek Dam Rehabilitation | 1,350,000 | 8,488,041 |
| Malta Irrigation District | | |
| Repair and Modification of Dodson Diversion Dam | 2,274,950 | 10,762,991 |
| <u>Section 2, Group D Projects</u> | | |
| Canyon Creek Irrigation District | | |
| Canyon Lake Dam and Wyant Lake Dam | 300,000 | 11,062,991 |
| Total Request for New Loans: <u>\$11,062,991</u> | | |
| * Section 1 projects meet the provisions of 17-5-702, MCA. | | |
| ** Section 2 projects may not complete the requirements needed to obtain the loan funds prior to June 30, 2003. | | |
| NOTE: Projects are grouped by differences in interest rates. | | |

RECLAMATION AND DEVELOPMENT GRANT PROGRAM

Program Description

Resource indemnity trust interest earnings in the amount of \$2.4 million are to be deposited into the reclamation and development grant account each biennium for the purpose of making grants (15-38-202, MCA). The Reclamation and Development Grant Program is designed to fund projects that:

“..indemnify the people of the state for the effects of mineral development on public resources and that meet other crucial state needs serving the public interest and the total environment of the citizens of Montana” (90-2-1102, MCA).”

As provided in statute, projects approved under the RDGP are intended to:

- Repair, reclaim, and mitigate environmental damage to public resources from non-renewable resource extraction
- Develop and ensure the quality of public resources for the benefit of all Montana citizens

The Reclamation and Development Grant Program is also administered by DNRC, which solicits, evaluates, and ranks each application on a biennial basis. Those eligible to apply for grants include state and local governments, political subdivisions, and tribal governments. Applications are evaluated according to specific criteria related to:

- Public benefit
- Need and urgency
- Appropriateness of technical design
- Financial feasibility
- Project management/organization

No grant may exceed \$300,000. DNRC forwards a list of recommendations to the executive, who reviews the list and submits funding recommendations to the legislature. The \$2.4 million statutorily allocated to the RDGP is deposited into the reclamation and development grants state special revenue account.

During the special session of August 2002, the legislature reduced the revenue for RDGP grants by 20.0 percent starting in fiscal 2003 and continuing through fiscal 2005. The reduction lowered the amount of statutorily allocated grant funds from \$1.5 million to \$1.2 million each year. The allocation will return to \$1.5 million a year in the 2007 biennium.

Executive Recommendation

Figure 10 shows a priority listing of the RDGP grants recommended by the executive for the 2005 biennium. DNRC received a total of 26 applications totaling \$7.3 million. HB 7 will include a list of 14 projects with an estimated cost of \$3.0 million. In accordance with 90-2-1113, MCA, priority consideration is given to the Montana Board of Oil and Gas Conservation for \$600,000 in grants (projects ranked 1 and 2) and abandoned mine reclamation projects for \$800,000 in grants (projects ranked 4, 8, and 10) over the biennium. This results in a remainder of approximately \$1.0 million for other projects. Project grants are matched by about \$8.0 million in non-RDGP funds from a variety of state, federal, private, and local sources.

Figure 10
Reclamation and Development Grants
2005 Biennium

| Rank | Sponsor/Title | Amount Requested | Recommended Amount | Cumulative Amount |
|---|---|------------------|--------------------|-------------------|
| 1 | Board of Oil and Gas Conservation 2003 Northern District Plug & Abandonment | \$300,000 | \$300,000 | \$300,000 |
| 2 | Board of Oil and Gas Conservation 2003 Southern District Plug & Abandonment | 300,000 | 300,000 | 600,000 |
| 3 | Department of Natural Resources and Conservation Planning Grants | 150,000 | 150,000 | 750,000 |
| 4 | Department of Environmental Quality Washington Mine & Millsite Reclamation | 300,000 | 300,000 | 1,050,000 |
| 5 | Big Horn Conservation District State-Line Groundwater Monitoring Network-Tongue & Powder River Watersheds | 300,000 | 300,000 | 1,350,000 |
| 6 | Sunburst, Town of Sunburst Water Supply Renovation | 185,249 | 185,249 | 1,535,249 |
| 7 | Board of Oil and Gas Conservation Fate & Transport of Impounded Coal Bed Methane Water | 200,000 | 200,000 | 1,735,249 |
| 8 | Department of Environmental Quality Drumlummon Tailings, Goldsil - Argo Millsite & Mine Waste Reclamation | 300,000 | 300,000 | 2,035,249 |
| 9 | Toole County 2003 Plugging & Abandonment Aid to Small Independent Operators | 300,000 | 240,000 | 2,275,249 |
| 10 | Department of Environmental Quality Blue Bird Mine Reclamation | 300,000 | 200,000 | 2,475,249 |
| 11 | Sheridan County Conservation District Protecting Natural Resources by Reclaiming Oilfield Brine Contaminated Soils | 299,950 | 150,000 | 2,625,249 |
| 12 | Montana Governor's Office Growing Carbon "Applying Market-Based Conservation Through Carbon Sequestration" | 300,000 | 150,000 | 2,775,249 |
| 13 | Fergus County Conservation District Central Montana Aquifer | 299,500 | 150,000 | 2,925,249 |
| 14 | Judith Basin Conservation District Judith Basin Aquifer Restoration & Coconservation | 300,000 | 70,000 | 2,995,249 |
| 15 | Butte-Silver Bow Local Government Excelsior Reclamation Project | 129,497 | - | 2,995,249 |
| 16 | Butte-Silver Bow Local Government Butte Native Plant Propagation Project | 167,337 | - | 2,995,249 |
| 17 | Lewis And Clark County Cave Gulch Watershed Restoration | 300,000 | - | 2,995,249 |
| 18 | Montana Department of Environmental Quality Former Equity Co-Op Bulk Plant | 300,000 | - | 2,995,249 |
| 19 | Montana Department of Environmental Quality Broadway/Victoria Mine Reclamation | 300,000 | - | 2,995,249 |
| 20 | Montana Department of Environmental Quality Montana Tire Recyclers Cleanup | \$300,000 | \$0 | \$2,995,249 |
| 21 | Montana Department of Environmental Quality Kendall - Hilger Area Barnes-King Gulch Tailings Removal | 300,000 | - | 2,995,249 |
| 22 | Montana Department of Environmental Quality Browns Gulch Creek Restoration | 300,000 | - | 2,995,249 |
| 23 | Powell County CMC Roundhouse - Site Cleanup | 276,450 | - | 2,995,249 |
| 24 | Powell County Kimball Mine Complex Reclamation | 300,000 | - | 2,995,249 |
| 25 | University of Montana Recovery of Metals and Remediation of Hazardous Mine Wastes | 300,000 | - | 2,995,249 |
| 26 | Whitefish, City of Reclamation of Pre-1971 Opencut Gravel Pit | 300,000 | - | 2,995,249 |
| Total Projects Recommended for 2005 Biennium: | | | <u>\$2,995,249</u> | |

CULTURAL AND AESTHETICS GRANT PROGRAM

CULTURAL AND AESTHETIC GRANT PROGRAM

Program Description

The Cultural and Aesthetic Grant Program, administered by the Montana Arts Council (MAC), is funded by investment earnings from a statutory trust, which receives coal severance tax revenues. By statute, the interest from the cultural trust is to be appropriated for protection of works of art in the State Capitol and other cultural and aesthetic (C&A) projects, 15-35-108, MCA. Legislation passed by the Fifty-fifth Legislature resulted in a number of changes to the amount and use of the revenue the C&A project account receives. A discussion of these changes is provided below under "Funding."

Grant applications for cultural and aesthetic projects are submitted to the MAC on a biennial basis. Eligible applicants include the state of Montana and regional, county, city, town, or Indian tribal governments. A 16-member Cultural and Aesthetic Projects Advisory Committee, with eight members appointed by the Montana Arts Council and eight appointed by the Montana Historical Society, reviews each application. The committee prioritizes the requests and makes funding recommendations to the legislature as part of the Executive Budget. All grants require legislative approval in accordance with Title 22, Chapter 2, part 3, MCA.

Figure 11 provides a historic perspective of the Cultural and Aesthetic Grant Program. In the table, funding of the projects is from the C&A account unless otherwise noted.

Actual expenditures for the 1995 biennium were considerably lower than the amount appropriated due to revenue shortfalls. The decline in interest income was the reason for the large decrease in appropriations that occurred between the 1995 and 1997 biennia.

Again, due to revenue shortfalls during the 2003 biennium, actual expenditures are expected to be less than appropriated expenditures. During fiscal 2002, the MAC offered a reduction of \$25,000 in funding to bolster the general fund. Further cuts were made to the program in the special session of August 2002. The reductions are estimated to reduce the program grants by approximately 4.4 percent.

Executive Recommendation

The Governor recommendation for C&A grants will be introduced in HB 9. The first HB 9 priority recommended for funding is a \$30,000 appropriation to the Montana Historical Society for the care and conservation of capitol complex artwork, in accordance with 2-17-805, MCA. The second priority is for 81 C&A grant awards totaling \$723,827. These recommended awards are listed in Figure 12 in priority order within four categories, which include Special Projects less than \$4,500, Special Projects greater than \$4,500, Operational Support Projects, and Capital Expenditure Projects. During the 2005 biennium there are no projects recommended in the fifth, "Challenge Grant", category. The Executive Budget also includes a recommendation for \$311,323 in C&A funds to be appropriated in HB 2 to fund Montana Art Council administrative costs and the costs of the Folklife program. Total executive recommendations, therefore, are \$1.1 million.

| Figure 11 History of Cultural and Aesthetic Project Funding | | | |
|--|-----------------------|-------------------|-----------------------|
| Biennium | Funds Appropriated | Funds Expended | Number of Projects |
| 1979 | \$50,000 | \$50,000 | 1 |
| 1981 | 140,000 | 140,000 | 3 |
| 1983 | 641,680 | 602,042 | 15 |
| 1985 | 823,479 | 810,704 | 39 |
| 1987 | 1,476,511 | 1,414,114 | 63 |
| 1989 | 1,211,817 | 1,099,290 | 53 |
| 1991 | 1,298,788 | 1,184,661 | 65 |
| 1993 | 1,551,323 | 1,531,239 | 88 |
| 1995 | 1,706,735 | 1,267,952 | 93 |
| 1997 | 857,926 | 852,003 | 77 |
| 1999 | 1,489,453 | 1,416,787 | 79 |
| 2001 | 1,234,939 * | 1,163,905 | 76 |
| 2003 | 1,209,375 ** | 1,209,375 Est. | 74 |
| 2005 | 1,074,150 *** | N/A | 81 |

* Includes a \$600,000 general fund appropriation.
**Includes \$401,425 in general fund and \$198,575 in lodging facility tax appropriation
*** Represents the executive request and also includes \$499,150 general fund.

Figure 12
Cultural and Aesthetic Grant Program
Grant Recommendations
2005 Biennium

| Rank | Organization | Request | Grant Recommendation | Cumulative Total |
|---------------------------|---|----------|----------------------|------------------|
| Special Projects <\$4,500 | | | | |
| 1 | Montana Storytelling Roundup | \$4,500 | \$4,500 | \$4,500 |
| 2 | Miles City Speakers Bureau | 4,500 | 4,500 | 9,000 |
| 3 | Friends of Chief Plenty Coups Association | 4,500 | 4,500 | 13,500 |
| 4 | Council for the Arts, Lincoln | 2,500 | 2,500 | 16,000 |
| 5 | Sunburst Community Service Foundation | 4,500 | 2,700 | 18,700 |
| 6 | International Choral Festival | 4,300 | 4,000 | 22,700 |
| 7 | Montana Wool Growers Association | 4,350 | 3,700 | 26,400 |
| 8 | Crow Tribe | 4,500 | 2,250 | 28,650 |
| 9 | Hobson Community Library | 4,500 | 2,500 | 31,150 |
| 10 | homeWORD | 4,500 | - | 31,150 |
| 11 | Heron Players | 3,000 | - | 31,150 |
| 12 | Historic Montana Publishing | 4,500 | - | 31,150 |
| 13 | City of Townsend | 4,400 | - | 31,150 |
| Special Projects >\$4,500 | | | | |
| 1 | Montana Committee for the Humanities | \$61,920 | \$27,000 | \$58,150 |
| 2 | KUFM-TV, Montana PBS | 25,000 | 18,000 | 76,150 |
| 3 | Whitefish Theatre Company | 20,000 | 12,000 | 88,150 |
| 4 | Montana Performing Arts Consortium | 54,000 | 20,000 | 108,150 |
| 5 | Rattlesnake Productions | 30,000 | 15,000 | 123,150 |
| 6 | Montana Historical Society | 24,915 | 12,000 | 135,150 |
| 7 | Montana Preservation Alliance | 41,100 | 15,000 | 150,150 |
| 8 | MonDak Historical and Art Society | 4,500 | 4,500 | 154,650 |
| 9 | Grandstreet Theatre | 30,000 | 10,000 | 164,650 |
| 10 | Art Mobile of Montana | 19,475 | 12,500 | 177,150 |
| 11 | Glacier Orchestra & Chorale | 29,500 | 10,000 | 187,150 |
| 12 | Bozeman Symphony | 34,000 | 10,000 | 197,150 |
| 13 | Montana Alliance for Arts Education | 21,000 | 10,000 | 207,150 |
| 14 | V I A S, Inc | 25,000 | 10,000 | 217,150 |
| 15 | Hockaday Museum of Art | 40,000 | 13,000 | 230,150 |
| 16 | Rimrock Opera | 26,000 | 10,000 | 240,150 |
| 17 | Missoula Symphony Association | 14,000 | 7,000 | 247,150 |
| 18 | Paris Gibson Square | 15,908 | 8,000 | 255,150 |
| 19 | Going-To-The-Sun Institute | 22,500 | 8,000 | 263,150 |
| 20 | Yellowstone Ballet Company | 7,000 | 3,500 | 266,650 |
| 21 | Feathered Pipe Foundation | 13,016 | 2,000 | 268,650 |
| 22 | Huntley Project Museum of Irrigated Agriculture | 32,815 | 4,000 | 272,650 |
| 23 | Montana Mandolin Society | 30,000 | 1,000 | 273,650 |
| 24 | Asylum Pictures | 50,000 | - | 273,650 |
| 25 | Sandpiper Gallery | 38,350 | - | 273,650 |
| 26 | Missoula Cultural Council | 32,000 | - | 273,650 |
| 27 | Federation of Fly Fishers | 20,000 | - | 273,650 |
| 28 | Mainstreet Uptown Butte, Inc. | 2,500 | - | 273,650 |

Figure 12 (continued)
Cultural and Aesthetic Grant Program
Grant Recommendations
2005 Biennium

| Rank | Organization | Request | Grant Recommendation | Cumulative Total |
|---------------------|---|----------|----------------------|------------------|
| Operational Support | | | | |
| 1 | Schoolhouse History and Art Center | \$25,000 | \$16,000 | \$289,650 |
| 2 | Custer County Art Center | 32,000 | 20,000 | 309,650 |
| 3 | Writer's Voice (Billings YMCA) | 32,000 | 20,000 | 329,650 |
| 4 | Great Falls Symphony Association Inc. | 24,000 | 18,000 | 347,650 |
| 5 | MAGDA | 30,000 | 15,000 | 362,650 |
| 6 | Holter Museum of Art | 50,000 | 16,000 | 378,650 |
| 7 | Museum of the Rockies | 60,000 | 15,000 | 393,650 |
| 8 | MT Agricultural Center & Museum | 24,000 | 12,000 | 405,650 |
| 9 | Western Heritage Center | 40,000 | 15,000 | 420,650 |
| 10 | Billings Symphony Society | 45,000 | 15,000 | 435,650 |
| 11 | Montana Repertory Theatre | 70,000 | 15,000 | 450,650 |
| 12 | Shakespeare in the Parks | 35,000 | 15,000 | 465,650 |
| 13 | VSA arts of Montana | 12,000 | 12,000 | 477,650 |
| 14 | Alberta Bair Theater | 40,000 | 15,000 | 492,650 |
| 15 | Butte Center for the Performing Arts | 30,000 | 15,000 | 507,650 |
| 16 | MCT, Inc. | 50,000 | 15,000 | 522,650 |
| 17 | Intermountain Opera | 33,450 | 12,000 | 534,650 |
| 18 | Montana Assoc of Symphony Orchestras | 20,000 | 8,000 | 542,650 |
| 19 | Garnet Preservation Association | 22,000 | 12,000 | 554,650 |
| 20 | Yellowstone Art Museum | 83,000 | 16,000 | 570,650 |
| 21 | Rocky Mountain Ballet Theater | 13,300 | 6,000 | 576,650 |
| 22 | Montana Ballet Company | 10,000 | 5,000 | 581,650 |
| 23 | Myrna Loy Center | 40,000 | 16,000 | 597,650 |
| 24 | Butte Symphony Association | 30,500 | 15,000 | 612,650 |
| 25 | Vigilante Theatre Company | 22,000 | 11,000 | 623,650 |
| 26 | District 7 HRDC Growth Thru Art | 23,500 | 10,000 | 633,650 |
| 27 | Museums Association of Montana | 37,070 | 12,000 | 645,650 |
| 28 | Emerson Cultural Center | 61,790 | 10,000 | 655,650 |
| 29 | Carbon County Historical Society | 20,000 | 8,000 | 663,650 |
| 30 | Montana Arts | 30,000 | 10,000 | 673,650 |
| 31 | Mo-Trans Dance Company | 12,850 | 5,000 | 678,650 |
| 32 | Young Audiences of Western Montana | 12,000 | 8,000 | 686,650 |
| 33 | Gallatin County Historical Society | 15,000 | 7,500 | 694,150 |
| 34 | Northwest Montana Historical Society | 15,098 | 7,500 | 701,650 |
| 35 | Montana Dance Arts Association | 7,500 | 3,000 | 704,650 |
| 36 | Billings Cultural Partners | 10,000 | 2,500 | 707,150 |
| 37 | Big Horn Arts and Crafts Association | 20,000 | 5,000 | 712,150 |
| 38 | Carbon County Arts Guild | 20,000 | 6,000 | 718,150 |
| 39 | Montana Chorale | 11,600 | 5,000 | 723,150 |
| 40 | Artslink, College of Arts & Architecture, MSU | 10,000 | - | 723,150 |
| 41 | Miles City Preservation Commission | 10,100 | - | 723,150 |
| 42 | Dept of Media & Theatre Arts | 10,000 | - | 723,150 |
| 43 | Daly Mansion | 43,500 | - | 723,150 |
| 44 | Montana Science Institute | 36,000 | - | 723,150 |
| 45 | Garden City Ballet of Montana | 20,000 | - | 723,150 |

| Figure 12 (continued) | | | | |
|--------------------------------------|--|--------------------|----------------------|------------------|
| Cultural and Aesthetic Grant Program | | | | |
| Grant Recommendations | | | | |
| 2005 Biennium | | | | |
| Rank | Organization | Request | Grant Recommendation | Cumulative Total |
| Capital Expenditures | | | | |
| 1 | Archie Bray Foundation | \$50,000 | \$16,500 | \$739,650 |
| 2 | Great Falls Civic Center | 25,000 | 10,000 | 749,650 |
| 3 | Livingston Depot Foundation | 20,000 | 10,000 | 759,650 |
| 4 | Lewistown Art Center | 10,000 | 2,500 | 762,150 |
| 5 | Art Museum of Missoula | 100,000 | 15,000 | 777,150 |
| 6 | Billings Preservation Society | 19,708 | 10,000 | 787,150 |
| 7 | Moosehorn Club | 2,000 | 2,000 | 789,150 |
| 8 | North Missoula Community Development | 10,000 | 5,000 | 794,150 |
| 9 | Tobacco Valley Improvement Assoc. Board of Art | 47,250 | 5,000 | 799,150 |
| 10 | Cascade Co Historical Society | 25,000 | 5,000 | 804,150 |
| 11 | Philipsburg School District #1 | 25,000 | - | 804,150 |
| 12 | City of Helena | 20,000 | - | 804,150 |
| Total Requested/Recommended | | <u>\$2,472,265</u> | <u>\$804,150</u> | |

Funding

Prior to the 1997 legislative session, the C&A Grant Program was funded entirely with interest earnings from the cultural trust. However, the 1997 legislature appropriated \$3.9 million, approximately half of the trust corpus to help fund the purchase of Virginia City and Nevada City properties.

In order to compensate for the lost interest earnings that would result from the reduced corpus, the 1997 legislature allocated 0.87 percent of coal severance tax revenue to the C&A project account for the 1999 biennium only. Of this amount, 0.63 percent was previously allocated to the cultural trust. Consequently, the trust was capped for fiscal years 1998 and 1999. Beginning in fiscal year 2000, 15-35-108, MCA, provides that 0.63 percent of coal severance tax income will again flow into the trust and not into the C&A project account. The remaining 0.24 percent of coal severance taxes allocated to the C&A project account for the 1999 biennium, was previously part of the flow into the general fund. Beginning in fiscal year 2000, this amount was once again statutorily allocated to the general fund. Thus, for the 2005 biennium, the only funding for the C&A program provided for in statute is the interest income from the cultural trust.

In fiscal 2002 two actions were taken to increase revenues to the general fund. First, the C&A project grants were reduced by \$25,000. Next, the distribution from the coal severance tax was diverted out of the Cultural Trust and

into the general fund. The elimination of the flow caused a reduction in interest available for fiscal 2003 of approximately \$6,000. Additionally, during the special session of August 2002, general fund support of \$198,575 in the fiscal 2003 was replaced with lodging facility use tax revenue. The aggregate effect of all these actions is an anticipated shortfall in revenues to support the C&A grant program. Should this happen, all grants will be reduced by approximately 4.0 percent.

Based on the HJR 2 assumptions, interest earnings on the cultural trust will total \$659,000 for the 2005 biennium. As mentioned above, the executive budget includes approximately \$341,323 for administrative expenses and the Folklife program and grant funding proposals of \$723,827. Figure 13 shows the projected fund balance for the 2003 biennium based on the projected revenues and proposed expenditures.

| Figure 13 Cultural & Aesthetic Grant Program Fund Balance Projection, 2005 Biennium | |
|--|------------------|
| Estimated Beginning Fund Balance | \$0 |
| Revenue Projections * | |
| Fiscal 2004 Interest | 315,000 |
| Fiscal 2005 Interest | 317,000 |
| Total Funds Available | 632,000 |
| Proposed Expenditures | |
| Administration and Folklife | (311,323) |
| Capitol Artwork Care and Conservation | (30,000) |
| Grants | <u>(732,827)</u> |
| Total Expenditures | (1,074,150) |
| Projected Ending Fund Balance | (442,150) |
| Executive General Fund Proposal: | |
| Fiscal 2004 | 249,575 |
| Fiscal 2005 | <u>249,575</u> |
| Total General Fund: | <u>499,150</u> |
| Projected Ending Fund Balance if General Fund Revenue is Appropriated | <u>\$57,000</u> |
| * Based on HJR 2 revenue estimates adjusted for the proposed elimination of coal severance tax payments into the Cultural Trust during the 2005 biennium. | |

LFD COMMENT

Under present law, the available interest for the C&A program is estimated in HJR 2 to be \$659,000. The executive proposes to temporarily divert the flow of the coal severance tax away from the corpus of the Cultural Trust and into the general fund through the 2005 biennium. This change will reduce the interest flowing into the C&A grant program by approximately \$27,000 during the 2005 biennium. Figure 13 applies the changes in law proposed by the Governor. The loss of interest reduces the C&A grant program by approximately 11.0 percent from the prior biennium, and the available interest will be less in the future.

LFD ISSUE

The interest earnings available for the C&A grant program in the 2005 biennium are based on the estimates provided in HJR 2. The Executive did not use the HJR 2 estimates for determining the amount of interest that would be available to the program. As shown in Figure 13, the Governor's Budget requests a general fund appropriation to the C&A grant program of \$499,150. If this request is approved by the 2003 legislature, there would be sufficient money to fund the grants listed in Figure 12. The C&A project account is estimated to have a beginning fund balance of \$0 for the 2005 biennium, because revenues in the 2003 biennium are projected to be short of total appropriations. Thus, the MAC will expend all appropriation authority up to the revenue available. Language in HB 9 from the 2001 session provides a "reduction in grant" mechanism that allows the MAC to do this by reducing the individual project appropriations on a pro-rata basis.

**LFD
ISSUE**

Revenue Shortfall - Historically, language contained in HB 9 to address revenue shortfalls has provided for reduction of grants on a pro-rata basis, based on recommendations by the MAC. This methodology differs from the way reduced funding of appropriations is handled by other grant programs, where authorization is given to fully fund projects based on priority status and available funding. The methodology utilized for the C&A grant program may result in all projects being only partially funded, therefore being disruptive to all C&A grant recipients.

During the 1995 biennium, cultural trust interest earnings were significantly lower than what the 1993 legislature estimated. Consequently, the MAC implemented a voluntary across-the-board reduction in grant funding for all C&A grant recipients. Although many recipients were able to comply, in some cases the funds had already been spent or grantees opted not to comply with the request.

Therefore, the legislature may wish to consider the following options:

- Maintain the status quo by including language in HB 9 that allows the MAC to reduce all grants on a pro rata basis
- Include language in HB 9 directing the MAC to actually fund grants on a priority basis as revenues become available, rather than risk the need to reduce all awards and potentially disrupt or jeopardize projects already in progress

LIBBY BOND PROGRAM

Program Description

The Environmental Protection Agency (EPA) announced October 24, 2002, that the asbestos contamination in the Libby area has been officially listed on the National Priority List under the federal Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA). In 1983, legislators determined that the existence of hazardous substances and contaminants in the environment and hazardous waste disposal sites posed a significant health hazard through potential and actual contamination of the environment. The 1983 Legislature mandated, in 75-10-601, MCA, cooperation under CERCLA to “provide for the disposal and control of such hazardous substances and contaminants in a safe and environmentally sound manner”.

The Libby Bond Program (LBP) will furnish the mechanism to provide funding for the cleanup efforts in Libby and Troy and will be administered by the Department of Environmental Quality (DEQ). In the absence of a viable potentially responsible party, the state is required under section 104 of CERCLA to provide a 10.0 percent match to remedial action expenditures and to provide for 100.0 percent of any subsequent cost associated with the operations and maintenance of the remedy. The EPA has already spent approximately \$55 million on emergency removal actions to eliminate immediate asbestos threats. The Libby bond program will provide bonded funds for asbestos removal in the yards and homes in both Libby and Troy. Continued remedial action is expected to cost another \$60 to \$65 million in Libby and \$10 to \$15 million in Troy.

Asbestos contamination occurred when workers from Libby and Troy came home with asbestos imbedded in their work clothes. Asbestos was released into the air and transferred to the walls, floors, ceilings, home furnishings, and family members. Vermiculite, used as a source of insulation for walls and attics, worked its way through cracks and light fixtures. Yards were contaminated when vermiculite was brought home for use in residential yards and gardens.

Executive Recommendation

The executive proposes to use \$8 million of existing authority to match federal remedial expenditures on the cleanup in Libby. Because Libby is not the only Montana site on the National Priority List, the DEQ is also requesting an additional \$1 million of the existing authority for contingency purposes, making a total request for \$9 million in project authority. The funds will be spent incrementally, with the bulk of the expenditure expected to occur during the 2005 biennium. The department will coordinate closely with the EPA to determine cash flow needs and thus to sell bonds in increments and in amounts not to exceed actual needs.

LFD COMMENT

The Governor decided early in fiscal 2002 that the environmental problems evident in the Libby and Troy areas were of sufficient concern to “shoot the silver bullet”. The federal government permits each state one “silver bullet”, which allows a project that is being considered for superfund cleanup to be moved to a priority position on the superfund list. By “shooting the silver bullet”, the Governor made a commitment to prompt cleanup of the area.

Funding

In HB 10, the executive proposes to sell CERCLA general obligation (GO) bonds and deposit the proceeds into the Hazardous Waste CERCLA account authorized under 75-10-623, MCA. Present law limits GO bond authority, as a match to federal CERCLA funding, to \$10 million (75-10-625, MCA). 75-10-622, MCA establishes a separate account for the debt service payment for the GO bonds. Proposed legislation will direct a flow of the Resource Indemnity and Groundwater Assessment (RIGWA) tax into the debt service account in the amount needed to pay the annual debt service payments. Without the proposed legislation, the debt service for the proposed bond will be limited to “not more than one-half of the interest income received for any biennium from the resource indemnity trust fund” (75-10-621, MCA).

**LFD
ISSUE**

The timing of the cleanup operations in Libby and Troy has not been determined. Consequently, the executive has not provided a schedule for bond issuance. Until a schedule for the work and the bond issuance is developed, timing of the debt service is impossible to know. As mentioned above, when the Governor shot the “silver bullet”, there was an implied urgency for completion of the cleanup project. The executive proposes to use RIGWA taxes to fund the bond service for the Libby Bond Program. The estimated RIGWA collections, as adopted in the HJR 2 revenue estimates, show revenues of approximately \$1.1 million annually. Estimated debt service on a 20-year, \$9.0 million bond issue with a 5.0 percent rate of interest is approximately \$700,000 annually. Debt service will by necessity become the first priority distribution of the RIGWA tax. The current distributions of the RIGWA tax include: 1) a \$366,000 allocation for deposit in the groundwater assessment account; 2) 50.0 percent of the remainder to the reclamation and development grants account; 3) \$150,000 to the natural resource worker scholarship account; and 4) the remainder to the orphan share account. With a \$700,000 RIGWA debt service allocation, these programs will lose funding, some in entirety. For more information concerning the consequences of funding the Libby Bond Program with RIGWA taxes, refer to the Section C, Department of Natural Resource and Conservation Agency Overview.